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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/593,483	10/04/2006	Mitsuru Hasegawa	NPR-192	3141	
20374	7590	01/12/2010	EXAMINER		
KUBOVCIK & KUBOVCIK SUITE 1105 1215 SOUTH CLARK STREET ARLINGTON, VA 22202			BOSWORTH, KAMI A		
ART UNIT	PAPER NUMBER				
3767		MAIL DATE DELIVERY MODE			
		01/12/2010 PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/593,483	<b>Applicant(s)</b> HASEGAWA, MITSURU
	<b>Examiner</b> KAMI A. BOSWORTH	<b>Art Unit</b> 3767

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED **22 December 2009** FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). **ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet

12.  Note the attached *Information Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_

/Kevin C. Sirmons/  
Supervisory Patent Examiner, Art Unit 3767

/K. A. B./  
Examiner, Art Unit 3767

Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's argument that Higashikawa does not disclose a pre-filled syringe which meets the limitations of claim 1 that "an axial length of the intermediate gasket is longer than that of the bypass, and when an axial length of the bypass is  $a_1$  and an axial effective length of the seal part is  $b_1$ ,  $a_1 > b_1$ ", the Examiner respectfully disagrees. The axial length of the intermediate gasket can be measured as the distance between the outermost lips 105 (as seen in Fig 18); the axial length of the bypass can be measured as either the distance that the bypass runs along the length of the barrel or the distance that the bypass is extends into the barrel wall.

As can be seen in Fig 24, the axial length of the intermediate gasket is significantly longer than the bypass's axial length as it is measured as the distance that the bypass extends into the barrel wall. Thus, the limitation of "an axial length of the intermediate gasket is longer than that of the bypass" is met. Therefore, the applicant's argument that the bypass of Higashikawa can only act as a bypass if the axial length of the gasket is shorter than that of the bypass is not found persuasive.

As can also be seen in Fig 24, the bypass's axial length as it is measured as the distance that the bypass runs along the length of the barrel (or " $a_1$ " as noted in the claims) is greater than the axial effective length of seal part 105 (or " $b_1$ " as noted in the claims). Thus, the limitation of "when an axial length of the bypass is  $a_1$  and an axial effective length of the seal part is  $b_1$ ,  $a_1 > b_1$ " is met. Furthermore, although applicant argues that the axial effective length of the seal part must be the length between both seals 105 (as seen in Fig 18), this is not so since both seals are not required to perform the claimed functions; rather, since only one seal 105 is required to do so, this single lip acts as the "seal part" and thus, the axial effective length is only the length of the single seal part 105.

Furthermore, in response to applicant's assertion that the features of a bypass groove previously proposed in PCT/JP94/2138 are inherently the same as the features of the bypass groove in the present application, the Examiner respectfully disagrees as PCT/JP94/2138 discloses a completely different device; although Higashikawa may note this previous publication, it in no way requires that the features of bypass 24 of PCT/JP94/2138 read on bypass 116 in the currently applied reference. Therefore, the drawings found in PCT/JP94/2138 cannot be used to argue the present rejection.